

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of MICHAEL ALLEN FUGABAN,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

YOLANDA NORRELLO,

Respondent-Appellant.

UNPUBLISHED

October 16, 2007

No. 276660

Wayne Circuit Court

Family Division

LC No. 04-427462-NA

Before: Wilder, P.J., and Borrello and Beckering, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court's order terminating her parental rights to the minor child under MCL 712A.19b(3)(g), (i), (j), and (l). We affirm.

In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination under MCL 712A.19b(3) has been established by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 350, 356-357; 612 NW2d 407 (2000). Once a ground for termination is established, the court must order termination of parental rights unless it finds that termination is clearly not in the child's best interest. *Id.* at 365; MCL 712A.19b(5). This Court reviews the trial court's findings under the clearly erroneous standard. *In re Trejo*, *supra* at 356-357.

Respondent asserts the trial court erred in finding that §§ 19b(3)(g) and (j) were both established by clear and convincing evidence. She concedes, however, that § 19b(3)(l) was sufficiently established.¹ Moreover, respondent does not address the trial court's finding that termination of her parental rights was also warranted under § 19b(3)(i). Because only one

¹ Section 19b(3)(l) provides that the trial court may terminate a parent's rights to a child if the court finds, by clear and convincing evidence, that "[t]he parent's rights to another child were terminated as a result of proceedings under Section 2(b) of this chapter or a similar law of another state." There was no dispute in this case that respondent's parental rights to two other children were previously terminated pursuant to protective proceedings in the same court.

statutory ground for termination is required, and because respondent concedes that a ground for termination was established under § 19b(3)(l) and does not address the termination of her parental rights under § 19b(3)(i), she is not entitled to relief with regard to petitioner's burden of establishing a statutory ground for termination under MCL 712A.19b(3). See *In re Powers*, 208 Mich App 582, 592-593; 528 NW2d 799 (1995); see also *Roberts & Son Contracting, Inc v North Oakland Dev Corp*, 163 Mich App 109, 113; 413 NW2d 744 (1987) (failure to address an issue that necessarily must be reached precludes appellate relief).

Even if statutory grounds under §§ 19b(3)(l) and (i) did not exist, we do not feel the trial court was clearly erroneous in finding that §§ 19b(3)(g) and (j) were established by clear and convincing evidence. Under 19b(3)(g), parental rights may be terminated if "[t]he parent, without regard to intent, fails to provide proper care and custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age." Respondent concedes that she failed to provide proper care and custody, but asserts that she would be able to do so if she were provided with substance abuse treatment. Considering that respondent did not benefit from substance abuse treatment and other rehabilitation measures previously provided her in relation to the termination of her parental rights to two other children, and her drug abuse continued during her pregnancy with this child, we cannot conclude that respondent would benefit in the near future from additional treatment. Further, under 19b(3)(j), parental rights may be terminated if "[t]here is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent." In light of respondent's ongoing drug abuse and unstable housing and income situation, we agree with the trial court that the child would likely be harmed in respondent's care.

Respondent also argues that the trial court clearly erred in finding that termination of her parental rights was not contrary to the child's best interests because the child's father's parental rights were not terminated and respondent was not offered services to address her substance abuse problem. The status of the child's father's parental rights did not preclude the trial court from terminating respondent's parental rights. A trial court is permitted to terminate the rights of one parent and not the other. *In re Marin*, 198 Mich App 560, 568; 499 NW2d 400 (1993). Also, because respondent's parental rights to two other children were involuntarily terminated and petitioner sought termination of respondent's parental rights to the instant child in an original petition, petitioner was not obligated to offer respondent services to address her substance abuse problem. MCR 3.977(E); MCL 712A.19a(2)(c). Considering respondent's longstanding and continuing substance abuse problem along with her unstable housing and financial situation, conditions that led to the termination of her parental rights to two other children that respondent failed to attempt to rectify over a two-year period, the trial court did not clearly err in finding that termination of respondent's parental rights to the instant child was not contrary to the child's best interests.

Affirmed.

/s/ Kurtis T. Wilder
/s/ Stephen L. Borrello
/s/ Jane M. Beckering